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10/611,494

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Brian J. Smyth

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EXAMINER

MANCHO, RONNIE M

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

05/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/611,494

Applicant(s)

SMYTH ET AL.

Examiner

Ronnie Mancho

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 16-22 and 81-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-22, 81-94 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/05, 11/05, 4/06, 2/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 23-80 are cancelled from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Applicant timely traversed the restriction (election) requirement in the reply filed on 2/23/07.

2. Applicant's election with traverse of Group (I) drawn to claims 16-22 in the reply filed on 2-23-07 is acknowledged. The traversal is on the ground(s) that claims 81-94 are not independent and distinct from claims 16-22. Based on applicant's admission, claims 16-22 will be treated as not being patentably distinct from claims 81-94.

Applicant further indicates that a species election has not been made because the species requirement is directed to cancelled claims. The examiner notes that since applicant has cancelled claims 23-80, the species requirement directed to the cancelled claims is now moot.

Currently, claims 16-22 and 81-94 are pending for prosecution. The rest of the claims have been cancelled.

### ***Drawings***

3. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. *There are no drawings on file.* Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

It is noted that there are no submitted drawings.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 16-22, 81-94 are rejected under 35 U.S.C. 102(b) as being anticipated by Myr (2001/0029425).

Regarding claim 16, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; pages 3-8) discloses a computer-implemented method of creating a virtual traffic network comprising:

(a) inputting into a processor (CTU, see 0136; fig. 13) map data representing a road system, the road system being defined by a plurality of links (at 6 in fig. 13, the CTU receives map data about road systems. As clearly seen in figs. 20-23, the road systems inputted in the CTU are defined by a plurality of links; sec. 0162-0170);

(b) inputting into the processor (CTU, see 0136; fig. 13) flow data related to traffic flow on the road system (in sec. 0135 updated traffic flow data and accident reports which are related to traffic flow are inputted in the CTU; in sec. 0046 traffic situation on the roads which is related to traffic flow is inputted in the CTU. In the abstract, and sec. 0100, the probe vehicles act as sensors on the road links for collecting traffic flow data and forwarding the data to the CTU, etc);

(c) inputting into the processor (CTU, see 0136; fig. 13) traffic information about traffic events which are correlated to one or more of the links on the road system (in sec. 0136 traffic

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information about traffic events such as accidents , weather are inputted into the CTU. In section 0100 probe vehicle transmit traffic information such as traffic congestion to the CTU, etc); and

(d) the processor (CTU, see sec. 0010-0021) integrating the map data, the flow data and the traffic information to produce a virtual traffic network representing traffic conditions on the road system (at sec 0013-0018, 0063-0069, 019-0021; figs. 20-23 a virtual traffic network is produced as it is distributed to other vehicles requesting navigation guidance. The process is summarized in the abstract, sec. 0013-0021).

Regarding claim 17, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein the flow data is real-time flow data, the virtual traffic network representing real-time traffic conditions on the road system.

Regarding claim 18, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein the flow data is input from a plurality of road sensors.

Regarding claim 19, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein step (a) further comprises customizing the map data to define locally known features of the road system.

Regarding claim 20, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein the traffic information includes information related to one or more incidents on the road system.

Regarding claim 21, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein the map data, the flow data and the traffic information have a synaptic relationship with each other.

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Regarding claim 22, Myr (figs. 1, 3-5, 11, 13, 17, 18; abstract; sec. 0013-0021) discloses the method of claim 16 wherein the virtual traffic network is spatially oriented.

Myr anticipates claims 81-94. That is Myr anticipates claims 16-22 and since claims 81-94 are not patentably distinct from claims 16-22, Myr also anticipates claims 81-92

### ***Communication***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571-272-6984. The examiner can normally be reached on Mon-Thurs: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ronnie Mancho  
Examiner  
Art Unit 3663

JACK KEITH  
SUPERVISORY PATENT EXAMINER